

The 1st April, 1987

No. 9/3/87-6Lab/1609.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Oriental Electricals Insulation Pvt. Ltd., 50, N.I.T., Faridabad:—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 164 of 1984

between

SHRI SHAKAR PARSHAD, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S.
ORIENTAL ELECTRICALS INSULATION PVT. LTD., 50, NIT, FARIDABAD.

Present :

Shri Manohar Lal, for the workman

Shri B. K. Akhori, for the respondent-management.

AWARD

This reference under Section 10(1)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred to as the said Act) was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No. ID/FD/263-83/26050—55, dated the 25th July, 1984 to adjudicate upon the dispute of service matter covered by Second Schedule under Section 7 of the said Act, arisen between Shri Shankar Parshad, workman and the respondent management of M/s. Oriental Electricals Insulation Pvt. Ltd., 50, NIT, Faridabad. Accordingly it has been registered as reference No. 164 of 1984.

2. The facts of the case are that Sri Shankar Parshad was appointed on 24th November, 1975 as a helper in Glazing Section and his monthly pay was Rs. 390. He and other workers had formed a union and he was elected General Secretary thereof and in that capacity used to put demands before the management and due to grudge his services were terminated on 3rd June, 1983. He was compelled to submit his resignation and at his refusal he was threatened to be killed by the GUNDAS. Accordingly request has been made that he be reinstated into his job with full back wages and continuity of service also.

3. The respondent has contested the reference and filed a detailed Written Statement. It has been claimed that Glazing Department was closed in 1982 and on that account Shankar Parshad had to be retrenched on 3rd June, 1983. However, plea has been taken to the effect that respondent could not get work orders for glazing machines and seniority list was prepared and put on the notice board on 20th May, 1983 and later on retrenchment had to be effected. It has been pointed out that retrenchment compensation was calculated and offered to him but he had refused to accept the same and the same along with letter were sent to him by post but again he had refused to accept it. According to the respondent, there has been a closure of the said Department and full and final payment has been offered to him and as such respondent is not liable in any manner. Further it has been pointed out that their unit is now a dead industry and the said Act is not applicable and as such he cannot claim re-instatement since factory was closed on 19th October, 1984. The amount of compensation calculated comes to Rs. 4,525.70 P. and the same was offered to Shankar Parshad and amount was deposited in the Bank also and pay order in his favour was also drawn. Request has been made that there is no force in the reference and the same accordingly be answered against this workman.

4. By way of rejoinder Shankar Parshad has repeated his claim as well as allegations also. According to him glazing was closed in 1981 and BMC Box Tower and sleeving machines were being daily used. Then according to him there were 19 workers and his services have been terminated in an arbitrary manner.

5. On the pleadings of the parties, my learned predecessor had framed the following issues on 18th March, 1986:—

1. Whether the reference is bad in law ?
2. Whether the workman is gainfully employed ?
3. As per reference ?

6. On behalf of the respondent Chief Security Officer has appeared. Shankar Parshad has also stepped into the witness box and deposed in his favour. I have heard the parties as represented above. The findings are as below :—

7. Issue No. 3:—(As per reference)

The Department of Labour, Haryana has framed the following issue in the matter in dispute :—

“Whether services of Shankar Parshad were terminated in accordance with the rules and Justice and if not what type of relief he is entitled for?”

At this stage it is pointed out that it has been claimed by Shankar Parshad that he was appointed by the respondent on 24th November, 1975 and his services were terminated on 3rd June, 1983. This factual position has been admitted as correct by the respondent in its written statement and further so has been stated by its witness Chief Security Officer. On one hand it has been alleged that his services were terminated in an arbitrary manner and without adopting any procedure and as such the said order is void and nullity also. On the other hand the plea taken by the respondent has been to the effect that Shakar Parshad was working in Glazing Department which was closed in 1982 and he had to be retrenched on 3rd September, 1983 and factory had been closed on 19th October, 1984. It has also been pointed out that since then other workers were also retrenched and their accounts have also been settled. Here is the dispute of Shankar Parshad with the respondent. Now it is to be seen whether plea taken by the respondent is correct or not. To start with reference has to be made to Exhibit M-1, dated the 20th May, 1983.

Seniority list of workers of Glazing Department according to the same Shankar Parshad was the only employee and copy thereof was delivered to Labour Officer, Faridabad on 21st May, 1983. Exhibit M-2 is dated the 3rd June, 1983 and according to the same services of Shankar Parshad were retrenched and he had refused to accept that letter. The same alongwith details of Account Exhibit M-3/A were despatched to him on the same day,—vide letter Exhibit M-3 but he had refused to accept the same. Along with it pay order of Rs. 4,525.70 P. was also forwarded,—vide Exhibit M-5. Department of Haryana was informed about this retrenchment and on notice reply Exhibit M-7, dated the 2nd February, 1984 was submitted by the respondent. The Conciliation Officer had reported the matter to the Government.—vide Exhibit M-6. The respondent has seriously relied on above mentioned document that its factory has since been closed and as such there is hardly any necessity to reinstate its workman. I am of the opinion that the said plea has some force. Shankar Parshad has stated on oath to the effect that he is not aware as to whether the factory is lying closed or not. It has also been admitted by him that service references of other workers were pending in the court and all other workers have since settled the same and accepted the amount of compensation. He himself disclosed that Glazing Department had been closed in 1982. If it is the situation then I am afraid that Shankar Parshad is not entitled for reinstatement except the amount of compensation already calculated by the respondent payable to him. I am also of the view that Shankar Parshad has not been able to dislodge the plea taken by the respondent about the closure of its factory. Rather he has accepted the said contention. In my opinion in this case no other approach is possible since factory admittedly has been closed. The order of retrenchment on the face of it is valid one and hardly requires any interference. The respondent is however, directed to send the due amount to him by way of money order. This issue is answered against the workman and in favour of the respondent.

8. Issue No. 1 and 2 :

During the course of arguments these issues were not referred to and as such the same are accordingly disposed of.

9. As a result of my findings on issue No. 3 I answer the reference against the workman and in favour of the respondent.

Dated the 17th February, 1987.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.

Endst. No. 236, dated the 24th February, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of I. D. Act.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.